Remarks/Arguments

Claims 24-27 remain in this application. Claims 1-23 and 28-35 have been cancelled. New claim 36 has been added.

Claims 1-35 have been deemed to be in conflict with the claims of 10/089,533. The conflicting claims (1-23 and 28-35) have been cancelled from this application.

Claims 26 and 27 have been rejected under 35 USC 102(b) over Sklar et.al. The Office Action states that the reference teaches the same support pad and the use of drainage channels opening into a drainage outlet as the present invention. Claims 26 and 27 depend from claim 24 which requires the us e of a concave surface that is neither taught nor suggested by Sklars et al. As such, these claims are not anticipated by Sklars et.al.

Claims 24 an d25 have been rejected under 35 USC 103(a) over Sklar et al in view of Mehra et al. The Office Action states that Mehra et al teaches the concave surface of the support as in claims 24 and 25, that it would have been obvious to use the support of Mehra et al in Sklar et al and that the expansion of the membrane when wet would have been obvious and that the concavity of the support would provide for such expansion. Applicant disagrees.

In order for there to be proper combination of references, there must be some motivation (expressed or implied) found within the prior art teachings to suggest to one of ordinary skill in the art to make the combination and that knowledge cannot come from the applicant's invention itself. See In re Oettiker, 24 USPQ2d 1443 (Fed Cir 1992).

Mehra et al is silient on whether the funnel section of its support plate supports the membrane during use or whether the membrane expands at all during use. Sklar et al uses a flat

support surface with a series of ribs and a flat support pad on which the membrane rests during use. There is no motivation or suggestion for one to take the flat design of Sklar et al and adopt the support plate of Mehla et al. Moreover, even if one were to do so , there is no expectation that the tapered funnel shape of the support plate of Mehla et al would properly support a membrane that expanded during use and allow it to conform to that surface without creasing or tearing.

The use of the concave surface in the present invention is to allow the membrane to deal with the application pressure from the feedstream of the liquid being sampled. The sample taken by the product of the present invention comes from a pressurized line such as a supply line in a processing plant. It is pressurized by pumps, etc in order to move the liquid from one point to another such as from a mixing tank to a filling line. The present invention is designed to tap into that line while it is under pressure and use that pressure to cause the filtration of the liquid sample. This is something neither of the cited references contemplate. They instead are static filtration devices where the reservoir above the filter is simply filled and allowed to filter through the membrane under the effect of gravity, or if desired, a vacuum may be applied to the receiving reservoir below the membrane to evacuate the air present there in order to speed the filtration. (Mehla et al Column 3, lines 25-29) (It is well known that air in the filter must be displaced by the filtration liquid before filtration can occur. Mehla et al suggests the vacuum to do so.) In these systems, there is little pressure acting upon the membrane (merely the volume of liquid contained in the reservoir above it) and therefore little if any effect causing ti to expand. In the present invention however as there is significant pressure being encountered as the sample is being taken, there is a significant effect upon the membrane and as it wets it tends to expand. The use of the concave surface an din particular one that is calculated to fit the expanded membrane is neither taught nor suggested to one of

ordinary skill in the art from the references. As such it is believed these claims are in condition for allowance.

Reconsideration and allowance are respectfully requested in view of the foregoing amendment and remarks.

Respectfully submitted,

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